

REMARKS/ARGUMENTS

In response to the Election/Restriction Requirement mailed August 27, 2003, Applicant provisionally elects, with traverse, neurodegenerative disease. With respect to the agent of claim 35, Applicant notes that this claim has been cancelled herein. As such, Applicant believes that no election of agent as listed in claim 35 is required.

The claims readable on the elected species are believed to be claims 24-34, 36-38, and 43. Applicant understands that, upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

It is respectfully submitted that the claim groups identified by the examiner are not unrelated. Each has a common core set of operations pertaining to imaging of two interacting groups of cells and using quantitative phenotypes to determine or identify an effect on the cells.

Further, in order for a restriction requirement to be proper, there must be a serious burden on the Examiner. According to MPEP 803, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

In this case, any appropriate search of one species should reasonably cover the others as well. As indicated, all inventions involve a common core set of operations pertaining to imaging and quantitative evaluation of phenotypes. Hence, it is respectfully submitted that it would not be a serious burden on the Examiner to search all species.

Withdrawal of the restriction/election requirement is respectfully submitted.

If any fees are due in connection with the filing this Response to Restriction Requirement, the Commissioner is hereby authorized to charge such fees to Deposit Account 500388 (Order No. CYTOP002D1).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP



Lauren L. Stevens, Ph.D.
Registration No. 36,691

P.O. Box 778
Berkeley, CA 94704-0778
(650) 961-8300